

REMARKS

Upon entry of this Amendment, claims 3-85 are pending. Claims 3-65 stand rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. Claims 5-19, 21, 23, 24 and 27-46 stand rejected under 35 U.S.C. §112 paragraph 1 as containing subject matter which was not described in the specification to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention as of the application filing date. Claims 1, 2, 4, 5-19, 21, 23, 24, 26-46 and 48-84 stand rejected under 35 U.S.C. §112 paragraph 2 as being indefinite. Claims 3, 25 and 47 stand provisionally rejected under the judicially-created doctrine of double patenting over claims 7, 16 and 19 of copending Application No. 09/717,614, and stand rejected under the judicially-created doctrine of double patenting over claims 1, 8 and 11 of U.S. Patent No. 6,202,056. Claims 3, 25, and 47 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,385,596 to *Wiser*. Claims 5-24, 27-46, 48-64 and 66-84 stand rejected under 35 U.S.C. §103(a) as being obvious in light of *Wiser* and the Examiner's unsubstantiated personal knowledge.

Claims 1 and 2 are cancelled. New claim 85 is presented. Support for the new claim may be found, *inter alia*, on pages 15 and 20 of the originally filed specification. The claims as amended traverse the Examiner's rejections. No new matter is submitted.

Additionally, Applicant includes with this response an Information Disclosure Statement and a copy of one reference cited on a PTO Form 1449.

✓ Rejection Under 35 U.S.C §101

Applicant wishes to thank newly-assigned Examiner James Reagan for the courtesy extended in the teleconference on June 16, 2003, to clarify the stated rejection. During the teleconference, the Examiner agreed to withdraw the rejection if Applicant modified "data" in claims 3-65 to "electronic digital data." Appropriate modification has been made by this Amendment.

✓ Rejection Under 35 U.S.C §112, Par. 1

The Examiner requested Applicant to provide a definition for "indicia," as found in claims 5 and 27. Applicant relies on the ordinary meaning of the word as defined in unabridged

dictionaries (e.g., Webster's Third New International Dictionary). Generally, "indicia" may be defined as "something that serves to indicate."

Double Patenting

Applicant respectfully submits that upon indication of allowable subject matter for claims rejected under double patenting, a terminal disclaimer will be submitted.

Rejection Under 35 U.S.C §102

In the Office action, the Examiner states that *Wiser* "[teaches] a secure online music distribution system such that Applicants' steps for conveying data read on the media voucher and the audio file, respectively." Nothing more is stated as a basis for the rejection.

A comparison of this assertion and Applicant's independent claims shows that the assertion does not establish a *prima facie* case of anticipation, because it fails to show every element of each independent claim. Among other things, the Examiner's assertion does not show from independent claims 3, 25 and 47 at least the following: "conveying electronic digital data in a first protected transfer to deliver a permit." The specification describes on page 15, lines 2-4 that a protected transfer "provides a barrier to unauthorized access by omitting information that would facilitate further access if such information were available in association with the transfer." The specification further recites on page 15, lines 4-6 that "[w]hen source identification is not apparent to a receiver or receiving process, the protected transfer is an anonymous transfer from the point of view of the receiver or receiving process." Because *Wiser* does not disclose, teach or suggest "conveying electronic digital data in a first protected transfer to deliver a permit" a *prima facie* case of anticipation has not been made as to claims 3, 25, 47 and claims dependent there from.

Rejection Under 35 U.S.C §103

Independent claims 5, 27, 66 and 76 stand rejected under 35 U.S.C. §103(a) as being obvious in light of *Wiser* and the Examiner's personal knowledge. Regarding these independent claims, the Examiner states that Applicant's steps of conveying without conveying indicia of identification of the source reads on the Examiner's discussion of claims 20 and 22. Specifically, in discussing claims 20 and 22, the Examiner utilized personal knowledge as a basis

for the rejection, alleging that “it would have been obvious, if not inherent, to one of ordinary skill in the art at the time of the invention to modify *Wiser* to include anonymous data transfer using a firewall . . .”

Assuming, *arguendo*, that sufficient firewall technology is known, the Examiner does not cite any reference or describe knowledge about the problem solved by Applicant’s claimed invention. *Wiser* is unaware that using a known sources address creates a security leak and subjects the source to the risk of direct attacks. Without knowledge of the problem being solved, *Wiser* and the Examiner’s personal knowledge does not provide motivation to combine *Wiser* and firewall technologies. The combination does not constitute the claimed invention. Known firewall technology is described in Applicant’s enclosed Information Disclosure Statement, citing “A Reference Model for Firewall Technology” by *Christoph L. Schuba et al.* Firewall technology as described there does not include a protected transfer as described and defined by Applicant (e.g., involving three principals). In other words, the combination of *Wiser* and *Schuba* omits, among other things, a protected transfer as claimed by Applicant.

The rejection of claims 66 and 76 and claims dependent thereon was not complete enough for Applicant to make a reasoned response under 37 C.F.R. § 1.111. Applicant asks that the rejection be withdrawn or a complete *prima facie* case of rejection be made.

Conclusion

The application is believed to be in condition for allowance and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.


Applicant petitions for a 2-month extension of time to move the period for a response from June 11, 2003 to August 11, 2003. Please charge the necessary fee to Deposit Account No. 19-3878.

While no other fees are believed due, Applicant hereby requests that any other required fee to maintain pendency of this case, except for the Issue Fee, be charged to Deposit Account No. 19-3878.

Respectfully submitted,

Date: Aug 11, 2003

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